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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
09/101,844	10/05/98	CESARONI	SIM-10002/16

PM82/0703

RONALD W CITKOWSKI  
GIFFORD KRASS GROH SPRINKLE PATMORE  
ANDESRSON & CITKOWSKI  
280 N OLD WOODWARD AVE SUITE 400  
BIRMINGHAM MI 48009-5394

EXAMINER

BAKER, A

ART UNIT PAPER NUMBER

3641

DATE MAILED: 07/08/00

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/101,844

Applicant

Cesaroni

Examiner

Aileen Baker

Group Art Unit

3641



☒ Responsive to communication(s) filed on Apr 24, 2000

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 35 C.D. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

## Disposition of Claim

☒ Claim(s) 38-74 is/are pending in the application.

Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.

☐ Claim(s) \_\_\_\_\_ is/are allowed.

☐ Claim(s) \_\_\_\_\_ is/are rejected.

☐ Claim(s) \_\_\_\_\_ is/are objected to.

☒ Claims 38-74 are subject to restriction or election requirement.

## Application Papers

☐ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.

☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.

☐ The proposed drawing correction, filed on \_\_\_\_\_ is ☐ approved ☐ disapproved.

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).

☐ All ☐ Some\* ☒ None of the CERTIFIED copies of the priority documents have been received.

☐ received in Application No. (Series Code/Serial Number) \_\_\_\_\_.

☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\*Certified copies not received: \_\_\_\_\_

☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

☐ Notice of References Cited, PTO-892

☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). \_\_\_\_\_

☐ Interview Summary, PTO-413

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Notice of Informal Patent Application, PTO-152

— SEE OFFICE ACTION ON THE FOLLOWING PAGES —

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## DETAILED ACTION

### *Election/Restriction*

1. Upon reconsideration, the previous restriction requirement has been withdrawn. The following is a new restriction requirement.
2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 38-58, drawn to a bullet, classified in class 102, subclass 515.
  - II. Claims 59-74, drawn to a method manufacture, classified in class 264, subclass 3.3.
3. Inventions I and II are related as process of making and product made. The inventions are distinct if either or both of the following can be shown: (1) that the process as claimed can be used to make other and materially different product or (2) that the product as claimed can be made by another and materially different process (MPEP § 806.05(f)). In the instant case, the bullet can also be made by molding.
4. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.
5. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Shape of tapered section

- a. truncated cone

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b. truncated parabellum ✓

6. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Shape of tip

c. parabolic

d. rounded

e. hollow point

7. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Jacket position

f. jacket extends over the tapered section

g. jacket encloses all but the tip

h. jacket curls inwards towards the tip

8. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Shape of opposed end

i. flat

j. truncated tapered section

9. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

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Polymer of the core

k. ethylene/methacrylic acid copolymer ionomers

l. polyetherester elastomers

m. polyamides

10. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Material of the filler

n. copper

o. tungsten

p. bismuth

q. tin

r. stainless steel

11. This application contains claims directed to the following patentably distinct species of the claimed invention: If group I or II is elected, applicant must elect one from the following:

Material of the jacket

s. copper

t. thermoplastic elastomer

12. Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, 38-39, 41, 53, 58 are deemed generic.

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Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

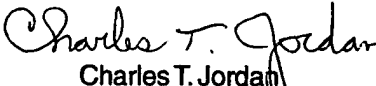
13. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Aileen Baker whose telephone number is (703) 306-5751. The examiner can normally be reached on Monday through Friday from 6:30 am to 4:00 pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Charles Jordan, can be reached on (703) 306-4159. The fax phone number for the organization where this application or proceeding is assigned is (703) 306-4195 .

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

  
Charles T. Jordan  
Supervisory Patent Examiner  
Group 3600